

MANDATE

05-10398
USDC/MA
Wolf, J

**United States Court of Appeals
For the First Circuit**

No. 05-2216

NANCY ESPERANZA MATIZ,
Petitioner, Appellant,

v.

M. RIVERA, WARDEN,
Respondent, Appellee.

Before

Lipez, Circuit Judge,
Stahl, Senior Circuit Judge,
and Howard, Circuit Judge.

JUDGMENT

Entered: February 7, 2007

We construe the appeal as a request for leave to file a successive petition under 28 U.S.C. § 2255 and, as such, it is denied as premature. Appellant seeks relief under United States v. Booker; 543 U.S. 220 (2005), which the Supreme Court has not made retroactive to cases on collateral review.

It is so ordered.

By the Court:

Richard Cushing Donovan, Clerk.

**Certified and Issued as Mandate
under Fed. R. App. P. 41.**

Richard Cushing Donovan, Clerk

NY
Deputy Clerk

Date: 4/10/07

MARGARET CARTER

By: _____
Chief Deputy Clerk.

[cc: Nancy Esperanza Matiz, Jennifer H. Zachs, AUSA]